

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE**

**HOLSTON UNITED METHODIST HOME  
FOR CHILDREN,**

*Plaintiff,*

v.

**XAVIER BECERRA, et al.,**

*Defendants.*

No. 2:21-CV-00185-TAV-CRW

**JOINT DISCOVERY PLAN REPORT UNDER FED. R. CIV. P. 26(F)**

Consistent with the Court's April 25, 2022 scheduling order and Fed. R. Civ. P. 26(f), the parties jointly file this discovery plan report.

**I. DISCOVERY PLANNING MEETING**

The parties held a telephonic discovery planning meeting on Tuesday, May 10, 2022. Counsel considered the issues set forth in Rule 26(f).

**II. DISCOVERY PLAN**

**A. Initial Disclosures**

The parties agree this case is exempt from initial disclosures under Rule 26(a)(1)(B)(i).

**B. Subjects, Timing, and Phases of Discovery**

**1. Subjects**

The parties agree that there is no need for discovery in this case, which they anticipate will be decided on the basis of the administrative record produced by Defendants.

**2. Timing**

*Plaintiff's position.* Plaintiff asks that the Court set a 30-day deadline for Defendants to produce the administrative record, and that this timeline should begin to run when the Court approves this discovery plan.

***Defendants' position.*** Defendants propose that they should produce the administrative record 30 days after the Court rules on Defendants' motion to dismiss, ECF No. 20, which presents threshold jurisdictional arguments. Pursuant to that motion, the Court may rule that it lacks subject-matter jurisdiction over the case such that there is no need to produce an administrative record. The Court therefore should not order Defendants to produce the administrative record before the Court rules on Defendants' motion to dismiss. *See In re United States*, 138 S. Ct. 443, 445 (2017) (per curiam) (noting that “the District Court should have . . . stay[ed] implementation” of order for government to produce complete administrative record and “first resolved the Government’s threshold arguments” concerning subject-matter jurisdiction because “those arguments, if accepted, likely would eliminate the need for the District Court to examine a complete administrative record”).

### **3. Phases**

The parties agree there is no need to conduct discovery in phases.

#### **C. E-discovery**

The parties agree that Defendants may serve the administrative record by email or electronic file as a substitute for service by mail or hand delivery, and in such event, the date of service by email shall be the equivalent of serving by hand delivery. The parties will agree on any electronic method of service that is used to ensure that Counsel for Plaintiff is able to receive the administrative record by that method based on its size and format.

The parties do not believe that additional orders or conditions need to be set forth concerning e-discovery. Production of the administrative record is subject to regular electronic record-keeping by the government.

#### **D. Expert Testimony**

The parties agree that expert testimony will not be needed in this case.

#### **E. Privilege or Protection**

The parties agree that provisions for protecting privilege are not needed.

**F. Limitations or Changes**

The parties agree that no other limitations or changes to the scheduling order are needed.

**G. Other Issues**

The parties are not aware of other issues that the Court needs to resolve at this time.

Respectfully submitted, this 20th day of May, 2022.

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